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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/554,382

10/25/2005

Franz Amtmann

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06/19/2009

NXP, B.V.

NXP INTELLECTUAL PROPERTY & LICENSING

M/S41-SJ

1109 MCKAY DRIVE

SAN JOSE, CA 95131

EXAMINER

LU, ZHIYU

ART UNIT

PAPER NUMBER

2618

NOTIFICATION DATE

DELIVERY MODE

06/19/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

|  |  |   |  |
|--|--|---|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <p><b>Application No.</b><br/>10/554,382</p> | <p><b>Applicant(s)</b><br/>AMTMANN ET AL.</p> |  |
|  | <p><b>Examiner</b><br/>ZHIYU LU</p>          | <p><b>Art Unit</b><br/>2618</p>               |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-3, 5-13 and 15-19.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Duc Nguyen/  
Supervisory Patent Examiner, Art Unit 2618

/Z. L./  
Examiner, Art Unit 2618

Continuation of 11. does NOT place the application in condition for allowance because: Regarding rejection on claims 1 and 11, applicants argued that Roz and Yamagishi do not teach a circuit with an external energy source information identification stage to identify second energy source information which includes a parameter of an energy source which supplies the circuit with electrical energy. Although Yamagishi describes functionality for the telephone and camera to send corresponding operating statuses to each other so that a user can be notified of the status of one device while using the other device, it should be noted that the telephone and camera are not communication partners which supply electrical energy to each other, the communication of operating statuses transmitted between the telephone and camera cannot be constructed as a parameter of an energy source which supplies electrical energy to another device. Applicants also argued that the combination relies on a motivation of the present application.

However, the Examiner does not agree. Actually, the claim only limits that the first communication partner and the second communication partner communicate with each other, but not supply electrical energy to each other. The claim is about the decision making of which energy source/send mode to use. As a primary reference, Roz already teach having a decision means to form a decision result based on two energy source information (V3 and V4 of Fig. 3). By claim interpretation, V4 can be considered as the first energy source information while V3 can be considered as the second energy source information since V3 does comprises a parameter of energy source serving in the other communication partner, e.g. whether external energy source is high or low. Additionally, Yamagishi shows that supplying energy source information to the other communication partner would also be a useful feature, which is an objective of the invention. In contrast to applicants' argument, Yamagishi has his own motivation for having such feature. It is for having the other communication partner aware of one's own energy source level, in order to avoid low power on usage. So, one of ordinary skill in the art would have obvious to recognize the feature Yamagishi introduces as a more direct approach of helping the decision means of Roz to make a decision on which energy source/send mode to use.

Thus, the rejections are proper and maintained.

Regarding rejections on claims 9 and 19, applicants argued that it is no explanation for the obviousness of facilitating termination and subsequent restart of a communication protocol.

However, the Examiner does not agree. For each communication between two RFID devices, there is a cycle of handshaking or inquiry-response process. When the previous communication session completes, of course it is obvious for termination and subsequent restart of a communication protocol. When it is decided to use the same send mode, it is obvious a restart instead of a start of a communication protocol.

Thus, the rejections are proper and maintained.

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